

# Provisional Guidance Notes

## Compliance Regime

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# Interpretation

- “Approves Person”
- “Compliance Officer”
- “Regulated Person”
- “Senior Officer”
- “Temporary Absence”



# Approved Person

- A person approved by the Commission to act in capacity of director, senior officer or officer under any financial services legislation;



# Compliance Officer

- A person appointed as such pursuant to section 2 (1) of the Provisional Guidance Notes on Compliance Regime and in accordance with section 34 (3) of the Financial Services Commission Act, 2001;



# Regulated Person

- A person authorised, licensed, registered or recognised or required to be so authorised, licensed, registered or recognised under a financial services legislation;



# Senior Officer

- A person in the employment of a regulated person at the level of director, manager or equivalent position or whose functions require him to be answerable to the board of the regulated person or any other person who is recognised and approved as a senior officer by the Commission; and



# Temporary Absence

- A period of not more than four (4) consecutive weeks or a total of twelve (12) weeks in a consecutive twelve (12) month period.



# Appointment & Removal of Compliance Officer

- Regulated Person not otherwise exempt shall appoint a Compliance Officer (s. 34 (3) Financial Services Commission Act); and
- Commission may direct removal of Compliance Officer.





# Status of Compliance Officer

- Senior & key member of staff with relevant qualifications and experience; and
- Sufficient seniority to enable independent judgment.



# Independence of Compliance Officer

- Possess sufficient independence to perform the role objectively; and
- Occupy a key position within the regulated person and not be susceptible to undue influence.



# Unrestricted Access & Provision of Sufficient Resources

- Unrestricted access to executive, non-executive directors, senior management and auditors;
- Compliance Officer will be expected to conduct regular visits to overseas introducers for the purpose of verifying customer due diligence information maintained in accordance with BVI requirements; and
- Provision of sufficient resources including human and financial to perform functions effectively.



# Temporary Absence of Compliance Officer

- An approved person to undertake compliance function during temporary absence of Compliance Officer; and
- If the Compliance Officer absence exceed the temporary absence period the person designated to perform compliance function in the interim shall be subject to the Commission's approval.



# Duties & Responsibilities of the Compliance Officer

- Manual of compliance procedures:
  - Compliance Officer is responsible for establishing and maintaining a compliance procedures manual:
    - ★ Complies with Commission's guidelines, policies and standards in accordance with Appendix A; and
    - ★ Is filed with the Commission.



# Duties & Responsibilities of the Compliance Officer

- Liaison functions:
  - Compliance Officer shall act as a liaison between regulated person and the Commission, including submitting written reports on regulated person's compliance with:
    - ★ FSC Act and other financial services legislation;
    - ★ Regulatory Code; and
    - ★ Directives or practice directions
- Written reports submitted at least once every six months.



# Duties & Responsibilities of the Compliance Officer

- Developing compliance culture;
- Establishing a training programme;
- Functions relating to required returns;
- Conducting reviews and assessments;
- Annual compliance reports;
- Establishing a complaints procedure; &
- Performing the functions of Anti-money Laundering Reporting Officer.



# Application Process for Compliance Officer

- Application for approval of Compliance Officer – Appendix B:
  - Certified copies of identification;
  - Certified copies of professional and educational qualification;
  - Resume or curriculum vitae (contact details for all previous employers);
  - Police certificate or sworn affidavit as to non-criminal record; and
  - Professional, personal and financial references.
- Non-refundable administration fee of \$100.





# Application Process for Compliance Officer

- Commission's "fit and proper" test;
- Compliance Officer ceasing to be "fit and proper"; and
- An approval not conclusive of a future approval.



# Exemptions

- Exemption from applying for approval of or appointing a Compliance Officer:
  - Captive insurers & credit life insurers;
  - Private funds;
  - Professional funds;
  - Public funds;
  - Class I, Class II or restricted Class II trust licensee without physical presence; and
  - Class III or restricted Class III trust licensee with less than 3 employees.
- Exemption does not apply unless licensee subscribes to declaration in Appendix F



# Exemptions

- Application for an exemption to appoint a Compliance Officer
  - Commission may exempt any of the following:
    - ★ Domestic insurer incorporated outside BVI;
    - ★ Mutual fund manager, mutual fund administrator, & mutual fund manager and administrator; and
    - ★ Restricted Class II trust licensee (not subject to regulation elsewhere but administered in BVI).
  - Commission may impose conditions to exemptions granted;
  - Where the Commission does not grant exemption, compliance with Guidance Notes mandatory; and
  - Application for an exemption - \$100



# Content & Structure of Compliance Manual

- Appendix A
  - Record Keeping & Disclosure;
  - Know Your Customer, Client Acceptance and Due Diligence Procedures;
  - Training and Recruitment;
  - Compliance with Statutory Filing, Reporting and Other Regulatory Obligations;
  - Significant Complaints Handling; and
  - Reporting Breaches of Compliance.



# Reporting Requirements

- Report submitted by Compliance Officer shall contain:
  - Training register;
  - Details of any legislative breaches and remedial action;
  - Suspicious transactions reported;
  - Significant complaints; and
  - Significant breakdowns in internal controls.



# Complaint Management

- Complaint procedures should address the following:
  - Person responsible for handling complaints;
  - Procedures for dealing with complaints;
  - How complaints will be handled;
  - What action should be taken;
  - Records to be kept of complaints;
  - Communication with complainant; and
  - Monitoring of complaint handling.



# Complaint Management

- Complaint register shall include the following information:
  - Complainant's name and address;
  - Date when complaint was made;
  - Date when complaint was reported;
  - Details and nature of complaint;
  - How and when complaint was investigated; and
  - What action was taken regarding complaint.



# Contact details

- [compliance@bvifsc.vg](mailto:compliance@bvifsc.vg)
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